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**BEFORE THE COMMISSION FOR COMMON-INTEREST
COMMUNITIES AND CONDOMINIUM HOTELS
STATE OF NEVADA**

GAIL J. ANDERSON, Administrator, REAL
ESTATE DIVISION, DEPARTMENT OF
BUSINESS & INDUSTRY, STATE OF
NEVADA,

Petitioner,

vs.

ANITA HERRERA-PEREZ,

Respondents.

Case No. 2013-2973

FILED

JUL 23 2014

NEVADA COMMISSION OF
COMMON INTEREST COMMUNITIES
AND CONDOMINIUM HOTELS

**COMPLAINT FOR DISCIPLINARY
ACTION AND NOTICE OF HEARING**

The Real Estate Division of the Department of Business and Industry, State of Nevada ("the Division"), by and through its counsel, Catherine Cortez Masto, Attorney General of the State of Nevada, and Michelle D. Briggs, Senior Deputy Attorney General, hereby notifies Respondent ANITA HERRERA-PEREZ ("RESPONDENT") of an administrative hearing before the Commission for Common-Interest Communities and Condominium Hotels, State of Nevada, which is to be held pursuant to Chapters 233B and Chapters 116 and 116A of the Nevada Revised Statutes ("NRS") and Chapter 116 and 116A of the Nevada Administrative Code ("NAC"). The purpose of the hearing is to consider the allegations stated below and to determine if an administrative penalty will be imposed against the RESPONDENT pursuant to the provisions of NRS and NAC including, but not limited to, NRS 116A.900.

JURISDICTION AND NOTICE

During all relevant times mentioned in this complaint, RESPONDENT performed the duties of a community manager as defined by NRS 116.023 and is, therefore, subject to the jurisdiction of the Division and the provisions of NRS Chapters 116 and 116A and NAC Chapters 116 and 116A.

FACTUAL ALLEGATIONS

1. Belvedere Towers Owners' Association (the "Association") governs a high-rise condominium tower conversion marketed as The Belvedere in Reno, Nevada consisting of approximately 176 units.

2. Secured Assets Belvedere Towers (SABT) owns 113 units and BTM, LLC (BTM) owns 31 units (SABT and BTM, collectively referred to herein as the "investment companies").

3. The investment companies controlled the Association's board of directors.

4. A unit owner within the Association filed a complaint against RESPONDENT alleging in part that RESPONDENT was being paid by the Association for performing community management, but was not licensed to provide such services.

5. RESPONDENT is a licensed real estate broker and has a property manager permit, but does not have a community manager certificate.

6. RESPONDENT was hired by the investment companies to manage the rental of their units. The investment companies, through the Association's board, made RESPONDENT an employee of the Association.

7. The Division's investigator asked RESPONDENT to respond to the allegation that she was engaging in management of a common-interest community without a community manager certificate from the Division.

8. The Association's attorney responded on behalf of RESPONDENT and RESPONDENT signed a Verification of that response which described RESPONDENT'S activities for the Association as:

Supervision of maintenance staff, facilitating bids and quotes based on the [Association's] needs, served as emergency contact for the [Association], and conducted routine inspections of common areas.

9. NRS 116.061 defines "management of a common-interest community" as "the physical, administrative or financial maintenance and management of a common-interest community, or the supervision of those activities, for a fee, commission or other valuable consideration."

10. RESPONDENT'S response to the Division also included evidence that RESPONDENT was paid by the Association as follows: \$55,250 in 2011, \$17,250 in 2012, and \$15,750 in 2013.

11. In 2014, RESPONDENT was paid \$1,500 per month by the Association.

12. On or about April 9, 2014, principles of the investment companies owning a majority of the units in the Association, including one board member of the Association, were indicted in California for wire fraud, bank fraud, conspiracy and money laundering.

13. In June of 2014, a receiver was appointed to run the investment companies' properties and the receiver was made the sole director of the Association; the investment companies' representatives resigned from the board of directors.

14. The receiver and sole board member filed for bankruptcy protection on behalf of the Association.

VIOLATIONS OF LAW

15. RESPONDENT violated NRS 116A.400(1) by engaging in the management of a common-interest community without a community manager certificate.

DISCIPLINE AUTHORIZED

Pursuant to the provisions of NRS 116A.900 the Commission has discretion to impose discipline as it deems appropriate, including, but not limited to one or more of the following actions:

1. Impose a fine not to exceed the amount of any gain or economic benefit RESPONDENT derived from the violation or \$10,000, whichever is greater.

2. Require the RESPONDENT to pay the costs of the investigation and hearing;
and

3. Take such other disciplinary action as the Commission deems appropriate.

The Commission may order one or any combination of the discipline described above.

NOTICE OF HEARING

PLEASE TAKE NOTICE, that a disciplinary hearing has been set to consider this Administrative Complaint against the above-named RESPONDENT in accordance with

Chapters 233B and 116 and 116A of the Nevada Revised Statutes and Chapters 116 and 116A of the Nevada Administrative Code.

THE HEARING WILL TAKE PLACE on **August 27-28, 2014, beginning at 9:00 a.m. each day or until such time as the Commission concludes its business. The Commission meeting will be located at the Legislative Building, 401 S. Carson St. Room 2134, Carson City, Nevada 89701, beginning at 9:00 a.m. each day or until such time as the Commission concludes its business. The meeting will be video conferenced to the Grant Sawyer Building, 555 E. Washington Ave. Room 4412, Las Vegas, Nevada 89101.**

STACKED CALENDAR: Your hearing is one of several hearings that may be scheduled at the same time as part of a regular meeting of the Commission. Thus, your hearing may be continued until later in the day or from day to day. It is your responsibility to be present when your case is called. If you are not present when your hearing is called, a default may be entered against you and the Commission may decide the case as if all allegations in the complaint were true. If you need to negotiate a more specific time for your hearing in advance because of coordination with out of state witnesses or the like, please call Claudia Rosolen, Commission Coordinator, at (702) 486-4606.

YOUR RIGHTS AT THE HEARING: Except as mentioned below, the hearing is an open meeting under Nevada's open meeting law, and may be attended by the public. After the evidence and arguments, the commission may conduct a closed meeting to discuss your alleged misconduct or professional competence. A verbatim record will be made by a certified court reporter. You are entitled to a copy of the transcript of the open and closed portions of the meeting, although you must pay for the transcription.

As a RESPONDENT, you are specifically informed that you have the right to appear and be heard in your defense, either personally or through your counsel of choice. At the hearing, the Division has the burden of proving the allegations in the complaint and will call witnesses and present evidence against you. You have the right to respond and to present relevant evidence and argument on all issues involved. You have the right to call and

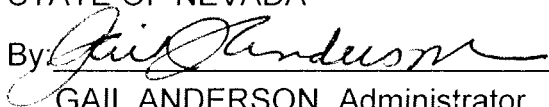
1 examine witnesses, introduce exhibits, and cross-examine opposing witnesses on any matter
2 relevant to the issues involved.

3 You have the right to request that the Commission issue subpoenas to compel
4 witnesses to testify and/or evidence to be offered on your behalf. In making this request, you
5 may be required to demonstrate the relevance of the witness' testimony and/or evidence.
6 Other important rights and obligations, including your obligation to answer the complaint, you
7 have are listed in NAC 116A.560 through NAC 116A.655, NRS Chapter 233B, and NRS
8 Chapters 116 and 116A and NAC 116 and 116A.

9 Note that under NAC 116A.585, not less than five (5) working days before a hearing,
10 RESPONDENT must provide to the Division a copy of all reasonably available documents that
11 are reasonably anticipated to be used to support his or her position, and a list of witnesses
12 RESPONDENT intends to call at the time of the hearing. Failure to provide any document or
13 to list a witness may result in the document or witness being excluded from RESPONDENT'S
14 defense. The purpose of the hearing is to determine if the RESPONDENT has violated the
15 provisions of Chapters 116 and 116A, and to determine what administrative penalty is to be
16 assessed against RESPONDENT, if any, pursuant to NAC 116A.360 and NRS 116A.900.

17 DATED this 23rd day of July 2014.

18 REAL ESTATE DIVISION
19 DEPARTMENT OF BUSINESS & INDUSTRY
20 STATE OF NEVADA

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